



CITY OF FORT PIERCE

PLANNING BOARD

Planning Board Minutes

OF THE REGULAR MEETING OF THE FORT PIERCE CITY PLANNING BOARD HELD ON TUESDAY, APRIL 14, 2009, IN FORT PIERCE CITY HALL, COMMISSION CHAMBERS, 100 NORTH US HIGHWAY 1, FORT PIERCE, FLORIDA.

Chairman Hayek called the meeting to order.

The Pledge of Allegiance was recited.

Upon Roll Call, those present were: Vice Chair Charles Hayek, Dan Dannahower, Charlie Harris, Tom Knott, Robert Poitier, Kara Wood, and Camile Yates.

Those absent: Jeremiah Johnson, Edward Reilly and Colin Lloyd.

Staff Present: James Walker, Assistant City Attorney; David Carlin, Assistant Director of Planning; Paul Williams, Urban Forester; Duane Yazzie, Development Review Planner; Bob Frank, City Traffic Engineer; and Maritza Suarez, Executive Assistant.

The next item considered - **#4 – Certification of Alternate Members (Mr. Weaver)**

Chairman Hayek said we have Steve Weaver. He is our Alternate Member tonight. We give him full voting status on the Board. Welcome Steve.

The next item considered – **# 5 – Approval of the March 10, 2009 Planning Board Minutes.**

Chairman Hayek said has everybody read the minutes from the last meeting? Any questions, changes?

Ms. Wood said Mr. Chair? It's just a procedural question. Since I wasn't here Mr. Walker, do I just abstain from voting? How does that work?

Board Attorney Walker said respectfully, Mr. Chair, Florida Statute 286.012 provides as follows: *"No member of any state, county, or municipal governmental board, commission, or agency who is present at any meeting of any such body at which an official decision, ruling,*

or other official act is to be taken or adopted may abstain from voting in regard to any such decision, ruling, or act...". Based upon that Statute Mr. Chair, it's my recommendation that Ms. Wood vote in reference to the minutes notwithstanding her absence at the last meeting. She would be voting based upon a perusal of the minutes as part of her normal, thorough preparation of the review of the record, as part of her normal thorough review for the meeting and she would be able to approve them based upon any concerns noted with respect to typographical inaccuracies or the like. Does that fairly respond to the question?

Ms. Wood said thank you Mr. Walker.

Chairman Hayek said thank you Mr. Walker.

Motion made by Ms. Yates and seconded by Mr. Poitier **to approve the minutes of the March 10, 2009 Minutes.**

Mr. Harris said I have a correction. My name is lie not les, Charlie not Charles.

Chairman Hayek said did you note the correction?

Ms. Suarez said yes I did.

Amended Motion made by Ms. Yates and seconded by Mr. Poitier **to approve the minutes of the March 10, 2009 Minutes with the correction to change Charles Harris to Charlie Harris.**

Unanimously approved by voice vote.

The next item considered: Consideration of Alternate Member voting status (Mr. Bey)

Mr. Bey said with all due respect, I'm an Alternate and I think you have in procedure, give me my right to vote.

Chairman Hayek said I'm sorry for not recognizing you. We'll give Darryl Bey full voting privileges as a member.

Mr. Bey said thank you.

The next item considered: **Item # 6 - Site Plan – J.J. Taylor Ft. Pierce Transfer Facility:** An application to construct a 24,614 square foot office/warehouse transfer facility on 5.95 acres. The property is located at Phase I of the Crossroads Commerce Park on Crossroads Parkway and is zoned CP-1, Commercial Parkway. The property owner is Alcat Ft. Pierce,

LLC; the Applicant is J.J. Taylor Companies, Inc. and the Representative is Beacon Design International, Inc.

Chairman Hayek said can we have staff present please?

Mr. Yazzie said good evening Board Members. Tonight, in accordance with Section 22-58 of the City Code, the applicant is requesting the review and approval for a Site Plan to construct a 24,614 square foot building for use as a beer distribution facility. The property is located within the Crossroads Commerce Park which is located Okeechobee Road and to the west of Crossroads Parkway. The property is approximately 5.95 acres and is zoned CP-1, Commercial Parkway. The surrounding zoning is also CP-1 to the north, east and to the south with the exception to the west which is unincorporated St. Lucie County. In addition, I'd like to advise the Planning Board Members that the application submitted notated a C-1 Neighborhood Commercial zoning. In addition, the agenda showed a notation of C-1 as well. Just for clarification, this is CP-1, Commercial Parkway. The new concrete building will be in the form of a tilt-wall system which will be painted with earth tone colors. The façade will be beige with accents of green and dark tan for the exterior wall faces. The roof will vary in height. Parapets will extend up to 30 feet at the highest point of the roof. The office entrance will be to the south and will incorporate windows that are impact resistant. In addition, the office entrance will have a green, flat, metal canopy roof which will provide shade and shield employees and customers against rainfall. The warehouse and loading areas will be a mixture of ramps and raised decks. This area will be located to the northeast and northwest of the building. At the loading areas, painted metal roll-up doors will be utilized. The property will be adequately lighted in accordance to the City's lighting specifications. The parking configuration has been designed to separate employee and customers from the large tractor-trailer parking area. The parking dedicated for office use will be located to the south. The applicant will provide a total of 48 parking spaces, two of which will be handicapped stalls located near an ADA compliant ramp. The remaining developed area will be for maneuvering and staging of large tractor-trailers. Vehicular access to the parking areas will be from two separate entrances: one from north and other at the south property boundary. The property will be fenced by a six foot high security fence and at each entrance a rolling gate has been proposed. In addition, a gate and a stop bar with pavement markings have been proposed. Sidewalks currently exist along the properties boundary along Crossroads Parkway and throughout much of the Crossroads Commerce Park. An exfiltration drainage system will be utilized in order to capture and filter storm-water runoff. The filtered water will be routed to the adjacent swales along Crossroads Parkway. Landscaping will also be provided around all vehicular use areas, backflow restrictors, as well as along the perimeter of the property. Additional landscaping has been proposed by the applicant in the area adjacent to the employee sidewalk area. The applicant will be providing 109 Live Oaks and 15 Cabbage Palms. Therefore, no tree mitigation will be required. The traffic analysis provided by the applicant demonstrated that the project will generate 207 trips. Of those trips, 37 will be in the peak a.m. hours, whereas 89 trips will occur during the peak p.m. hours. The trips generated by the distribution facility will impact 100% of State Road 70. The widening of State Road 70 is a funded project which was expected to begin with the widening of the roadway through Jenkins Road, Kings Highway in the year 2011. However, we recently found out that this project was delayed until the year 2014. Also, the traffic generated by the proposed

development will impact an unimproved section of Crossroads Parkway on the north side of State Road 70 which connects to Kings Highway. This road segment does not meet the City's paving specifications or contain sidewalks. The final amount of this off-site contribution will be finalized prior to City Commission consideration. It should also be noted that traffic analysis provided did not include approved projects for the impact radius. For example: Newberry Fields and La Quinta Inn. Those are just a few. The traffic analysis did demonstrate that 15% of the projects trips will traverse the Kings Highway corridor. The St. Lucie County Growth Management Department is requiring that the applicant provide a proportionate fair share for impacts to the intersection of Kings Highway and Orange Avenue. This figure has not been finalized between the agency and the applicant. In addition, the applicant will also be required to pay road impact fees in the amount of \$17,359. The County stated they would honor and apply a monetary credit for the Proportionate Fair Share towards the impact fees. Additional review from the St. Lucie County Transportation and Planning Organization, the Planning Department and the City of Fort Pierce Engineering Department concluded that future connectivity may warrant an east-west connection of Crossroads Parkway which may be achieved through the undeveloped, northern portion of the property. This connectivity would align with the current east/west Crossroads Parkway road segment and connect at the west eventually terminating at the State Road 70 or Okeechobee Road. This proposed future connectivity would alleviate congestion that would be caused at the intersection of Crossroads Parkway and State Road 70. The Comp Plan also supports this connectivity. This is just a closer view of that connectivity from the northern parcel of the proposed project. As the proposed site plan meets the requirements of the City Code, staff recommends that the Planning Board forwards a recommendation to the City Commission for approval of the site plan with the following conditions:

- Providing off-site contribution upon receiving the final Development Order for traffic impacts on the segment of unimproved Crossroads Parkway which is located on the north side of State Road 70 and terminates at Kings Highway.
- The applicant shall provide a Proportionate Fair Share to St. Lucie County for traffic impacts to the intersection of Kings Highway and Orange Avenue prior to the issuance of any building permits.
- The applicant shall provide road impact fees to St. Lucie County in the amount of \$17,359 prior to the issuance of any building permits.
- Right-of-Way is provided along the northern property boundary for future east-west connectivity of Crossroads Parkway to State Road 70.
- A revised traffic report is to be provided prior to City Commission consideration.
- The applicant may be required to provide a Proportionate Fair Share for impacts to State Road 70 from the Florida Department of Transportation prior to City Commission consideration.

Chairman Hayek said thank you Mr. Yazzie. Anybody from the Board have any questions for staff?

Mr. Knott said was that last condition, I didn't see it on our side, was that added or in addition to these?

Mr. Yazzie said that's correct. Chairman Hayek, Mr. Knott, that proposal came up at the last minute. We recently received correspondence from F.D.O.T this morning and they relayed that the applicant may be eligible for Proportionate Fair Share and that occurred this morning.

Mr. Knott said thank you.

Ms. Yates said I have a question on the east-west connectivity? How will that affect the northern end of the property?

At this time, the northern end of the proposed project on the site plan shows that it is going to be undeveloped. What we're recommending is that a Right-of-Way dedication of up to 30, 40 feet of Right-of-Way be given to the City from east to west.

Ms. Yates said on the northern boundary of the property?

Mr. Yazzie said correct.

Ms. Yates said so it won't affect drainage or anything like that?

Mr. Yazzie said at this time, that will be dedicated and future drainage will have to be contemplated upon further development.

Ms. Yates said thank you.

Chairman Hayek said anyone else? I do have a question, Mr. Yazzie. On the north-south Right-of-Way, has that already been given or is it up to the individual property owners to grant as development occurs?

Mr. Yazzie said if you tell me which part of the north-south.

Chairman Hayek said well you have the east-west on the north end of the property and then you showing it running almost to the north-west?

Mr. Yazzie said connecting to State Road 70? Is that what you're saying?

Chairman Hayek said yes.

Mr. Yazzie said there is currently an agreement for some type of cross access agreement through that portion of property. I have not seen that documentation but I understand there is one that exists.

Mr. Carlin said Mr. Hayek, if I could elaborate a little bit more on this particular, that area that you are referencing, that application came before Planning staff several years ago as

that property was contemplating making some modifications on the site. As you can see, it is currently utilized for truck refueling and servicing. One of the concerns that we had brought to that applicant's attention was this connectivity issue. At that time, they were in support of that. Our understanding is that they are still in support of that provided that there were no direct costs associated with making the connections that we contemplated as part of this Master Plan connectivity. The answer to your question, that particular area we feel there is an existing access easement within that property boundaries that will help alleviate some of the traffic off of State Road 70.

Chairman Hayek said thank you Mr. Carlin. Any other questions of staff? I'd like to bring whoever is in favor of this forward? Please state your name and address for the record please?

David Wilde, 6851 Kingston Drive, Lantana, Florida. I'm the Architect working with J.J. Taylor on this project. As far as the issues that were presented by the staff, we are still waiting on definition of the total impact fees as they relate to Proportionate Fair Shares from the City and the County. I guess the biggest obstacle that we seem to be running into is this land at the north end of our property that would be a portion of that connectivity. Our client has met with the owner that would be on the west side of our property which would be the most beneficial for having that connection and is open to discussion for utilizing that land. There are going to be drainage issues as far as how our drainage calculations are worked out currently. There will be monetary issues. There will be maintenance issues of who is going to maintain that new portion of road that's Commerce Park. We're open to meeting and discussing that and definitely not reluctant to be part of those discussions but at this point there is too many questions and not enough answers to make any solid commitments about giving away what would be more than a 1/3 of an acre of land. The other issues we're just waiting on definition as to what the impact fees would be so we can address them at that point.

Chairman Hayek said seeing that some of these roads will not be built to 2012 and beyond, I'm not sure if the municipalities can give you all an impact fee at this moment. Are they working on a definite figure for you?

Mr. Wilde said I'm assuming so, yes. Really most of our questions and comments throughout our planning process have been related to traffic. We're trying to work with them to see how we can define that and then start the ultimate decision making.

Chairman Hayek said anybody have any questions?

Mr. Knott said just a quick one if I could. So you're saying that you all are willing to move forward even with this cloud over some of these issues? If this Board would determine that we'd take staff's recommendation, you all would still continue on to the Commission?

Mr. Wilde said yes.

Mr. Knott said okay. One real quick question of staff. Whose idea was it to generate this other backdoor addition?

Mr. Carlin said Mr. Chair, Mr. Knott, this goes back several years. This is Planning Department's vision to create an improved connectivity. If you look at the screen here, we have a Master Plan that we've created. It all started with the first actually two properties up in the upper left hand corner of your screen, with the hotel that came in with the Candlewood Suites as part of that development. There were some discussions that Planning staff engaged with that particular property to try to make connections to go further west and that didn't happen. Then the subsequent discussions that ensued had to do with that truck plaza that you see at the upper left corner. That really feel is an important connectivity because as you can see, there are multiple curb cuts that exist along Okeechobee Road. We have multiple curb cuts that contributes to most of the traffic congestion along that area. This zoomed-in area shows where the red and yellow arrows are. There are multiple curb cuts there and it creates congestion. Also, we have anticipated for some time now that the development of the Crossroads Parkway is (if you go back to the original aerial, Duane) when all the future development occurs with these large industrial developments that come in, 200,000, 300,000 square foot to the south of the property there where you recently considered IDI Development, that was 300,000+ square feet of industrial use where you have a substantial amount of numbers of trucks that are going to be accessing Okeechobee Road. Ultimately, when you have a million square feet plus of the remaining buildout on the south part of your screen there in addition to all the other undeveloped properties, there is only one access point to get onto Okeechobee Road. That access point as you can see on your screen is where that teacup is located. That teacup, in that area where the Steak and Shake restaurant is, is a very unsafe condition. It requires vehicles to make very unsafe maneuvers and it's also going to also create congestion for access into that area where the hotels are and the Red Lobster are. The bottom line is that we're looking at a Master Plan to improve the connectivity in this area and to anticipate the growth. Yes, right now that intersection does function at an appropriate level of service; but, what we're saying is that down the road when future development occurs, that intersection won't be functioning at an acceptable level of service. Now is the time to plan for these things and that's where we came up the plan that we've put forth.

Mr. Knott said David in light of that and to follow up on that, are you planning to get adequate Right-of-Way? That area that you're accessing through there, that's a real hodgepodge in there right now with the bus station or whatever is in there and you've got people walking all through. You've got pedestrians walking back and forth in there. Are you going to take enough Right-of-Way? There's a Right-of-Way there to begin with, north and south Right-of-Way not east-west Right-of-Way.

Mr. Carlin said well there is no Right-of-Way per say that exists currently right now. It's an access easement. That's our understanding. Ultimately, when that property becomes reconfigured as the property owner has intended to do for some time, where that truck plaza is, that will help.

Mr. Knott said that plaza is going to be cut up again?

Mr. Carlin said well that was the proposal that was put forth to us but that would make sense to address the situation now.

Mr. Knott said it would be nice to have a relief even though it wouldn't possibly just be a right in and a right out even though you do show one that goes to the west.

Mr. Carlin said well right now it allow left and with the absence of F.D.O.T coming forward with any plan to widen State Road 70 it does provide as an alleviator to make left hand turn movements.

Mr. Knott said they probably never signalized that well.

Mr. Carlin said that's another possibility too but a signalization as Bob Frank will indicate to you is something that would have to warrant signalization. We've looked at the measurements. There is appropriate spacing we feel to put a signalization there if it warrants it. Ultimately, aligning that area and this is where the coordination with F.D.O.T. is so important, where we could say "Hey, wait a minute. Before you go forward with a true Master Plan for widening State Road 70 from Kings Highway all the way to Jenkins Road and then all the way down to U.S. 1", that's an additional improvement that they've contemplated. This is something that we may have to re-evaluate. As you can on U.S. 1 to meet the curb cuts that were installed created a flurry of concern by affected businesses and they've appealed to the F.D.O.T. and said "Wait a minute. We think there is better access. There are accidents that are happening there now." Curb cuts create an interesting challenge. That certainly will play a factor in the ultimate outcome of this particular request that we feel is necessary.

Mr. Knott said how much of Right-of-Way you need off this property?

Mr. Carlin said that brings up something that we can work through. The City's minimum Right-of-Way width is 60 feet. The existing Right-of-Way there, I believe, is 100 feet which really doesn't make much sense when there's just a two-lane configuration. We're not sure why that was contemplated when the site was first laid out, but what we do know is that the minimum impact that we could do based on some discussions with Engineering and also some other engineers that have looked at this, 60 feet would be adequate to do the bare bone minimums which would have the least impact on both properties.

Mr. Knott said the store's property line matches the centerline?

Mr. Carlin said essentially, maybe just offset just a very small, a couple of feet but you can see it. It's very much dead center.

Mr. Knott said 30 feet off of this property would be adequate?

Mr. Carlin said well, that would be the minimum. Certainly, the more that you plan for the future, you know, you've got trucks that make turns so obviously why it's 100 feet I couldn't tell you because I wasn't part of that original discussion.

Mr. Knott said very good. Thank you.

Ms. Yates said Mr. Chairman? I'd like to ask staff have you pursued any negotiations with the property owner just to the north of the subject property?

Mr. Carlin said there was previously a site plan that was considered here several years ago for this area. At the time, we made the request to provide connectivity. However when the market changed, that plan went away. We haven't had any direct discussions with that particular property owner. At that time that it comes in for development we would be certainly be looking at that to facilitate the remaining right-of-way that would be used to facilitate this connectivity.

Ms. Yates said thank you.

Chairman Hayek said any other questions of staff or the owner?

Ms. Wood said in light of the concerns that the applicant just expressed about the donation of that right-of-way or maybe the question, it would certainly seem like, as you've said, the level of service at that intersection of Crossroads and Okeechobee is not failing at this point but with the contemplated ultimate development of this area, it will at some point. It would seem like the cost of that infrastructure would need to be calculated and sort of dispersed on a prop share basis to all of the property owners who are going to develop unless that costs comes down on the City of Fort Pierce.

Mr. Carlin said well Mr. Chair, Ms. Wood. Certainly the City can't absorb that costs because that's not something we contemplate. What I can tell you is that the property owner further to the west has given indications that they would pay for that connectivity, they would pay for providing extra drainage, they would pay for reimbursing the applicant if this could be made possible. There is hope on many different avenues to facilitate this request. Certainly, I don't want to speak on behalf of that property owner, but all indications are that this was something that is going to be beneficial for everyone and when we have some preliminary indications that this is something that would be a win-win situation even for the truck plaza. They've indicated that they have no objection to facilitating this. It's a win-win situation for all property owners. I'll also point out, with this particular developer, J. J. Taylor, they will have the opportunity in the even that the connectivity is provided to have access to that connectivity because their property is right there. They can make a stub out and further have access to going up through that particular property there and have access to Okeechobee Road, another alleviator to the tea cup that is currently exists. There are many opportunities for this connectivity to take place.

Ms. Wood said no I agree. Where I was going with that was the question as to what, and I understand the difficulty of sorting coordinating all this for possible, future someday development, and then F.D.O.T's unknown schedule but would there an arrangement possible with this applicant for an impact fee credit for the value of the land that's donated for the right-of-way? Is that generally factored in?

Mr. Carlin said Ms. Wood, our Proportionate Fair Share ordinance does allow, I believe, right-of-way dedication to be used to offset the requirements. There are provisions in place that contemplate those of things. We could certainly look at how does it work with the applicant on the final fair share element. That might help them.

Ms. Wood said thanks.

Chairman Hayek said anybody else? I have a question of the owner. If you are going to have to give up the right-of-way on the north end of the property, according to your site plan, you're not showing any connectivity to your property to be able to get the trucks out on the north end rather than having to come out onto Crossway Parkway on the front side. Do you plan, if you have to give this right-of-way up, that you would try to access it to the north?

Mr. Wilde said I don't think we could because there's too many things to work out. One, so the roads won't be built for who knows how long because you still got to work it out with our neighbor to the north and get that piece of the puzzle. I don't think we have enough room in our paving allowance for our property, for our pervious/impervious, to pave another connection. That's how close we are. That's what the drainage for the site is going to be the biggest issue now. We're getting news today that the neighbor to the west might possibly take on some of that drainage responsibility. I don't know how that would work with Crossroads Parkway Master Drainage Permit that's through the South Florida Water Management District. They might have bigger issues than we can answer. I don't think we can ever plan on it by the time we could construct something to be able to think that road would be in before we're done.

Chairman Hayek said I didn't mean to have it in there before the road is there but to even plan for it. Maybe that's something the City could work with you and try to resolve that because it would alleviate some of the traffic on that northwest, northsouth Crossroads Parkway.

Mr. Wilde said it couldn't be our only, I guess it could but, it would only be an exit. From my understanding, when you get to Okeechobee you could only go east. Unless you were coming from the Turnpike, you're not going to be able to get on to that to get into our site without doing a U-turn or cutting across Okeechobee unless we're putting a light at that intersection also. We're driving tractor trailers and getting access to that is going to be probably more difficult than being able to use it for a full-time traffic exit and entrance. It probably wouldn't work, at least in its current configuration.

Chairman Hayek said thank you.

Mr. Carlin said Mr. Chair, just to follow up on that. The issue isn't so much entering the development. The issue is really leaving the development. We have everyone leaving Crossroads Parkway right now. The trucks are all going to be stacked up along Crossroads Parkway and only to take a left-hand turn if they need to go westbound but also eastbound and it blocks that teacup. You can see it right now if you have three trucks as it presently is configured, it creates the problem. Again, we're looking for alleviators and as

part of the Master Plan to encourage additional connectivity that we've already contemplated. Again, these things will all ultimately help out the overall traffic flow within the development. We feel strongly that this is the right approach to deal with this situation. The Engineering does and the TPO has also given us those indications and the property owners. The adjacent property owners have also given us those indications. The Comprehensive Plan would support these types of connections.

Mr. Wilde said can I comment on an idea that I just saw as we were looking at this? Can you zoom this out to show the whole site plan which shows where Crossroads Parkway or the street in front of ours dead ends? It is my understanding that south of property where the road ends that is a big Master Plan's development which is going to be continued. Is that correct?

Mr. Carlin said at this time we don't have any plans that have been submitted for that south area. Originally there was a plan that was contemplated several years ago. The only thing that's been presented to planning staff was a development in the southeast corner of the property which the Planning Board recently considered. That was the IDI project. The remaining parcels that will be built further to the west, we don't know when or if those properties will develop at some future time as those developments come in, that's when we facilitate the remaining connectivity. We feel is going to ultimately help out the overall Crossroads Parkway area.

Mr. Wilde said my thought was that this property that's to the west of ours, if they extended that road through the McDonald's parking lot, straight through his property, you could connect back farther south to where the cul de sac is now, where it doesn't look like there are parcels platted at this time. Just throwing something out there that might have less of an impact on somebody with a couple of hundred acres.

Mr. Carlin said Mr. Chair, we have considered that type of arrangement but with that configuration it does create somewhat of a challenge for that particular parcel because as you can see it's even smaller than the one that currently is before you tonight and the property to the north. That has more impact in terms of what happens with that particular area. That is another option to even provide more connectivity. Not only that, but future connectivity that goes up to the north. Again, more alleviators from going to the teacup area. Certainly, there are other options that can be contemplated as these properties to the south develop. Right now, we don't have any properties that have come in with any proposed plans. We have the Master Plan connectivity obviously to facilitate that but with the additional connectivity to the west, certainly that's another option, another alleviator.

Chairman Hayek said thank you. Anyone else to speak for this project? Please state your name and address for the record please?

Mr. Ingraldi said my name is Peter Ingraldi. I'm with Incom Properties. We own the property to the west. First I'd like to mention that we delivered from our Engineers today what we feel would be a very very non-evasive solution to the problem. It wouldn't hold up their site plan approval and Engineering has agreed with us and I believe staff seems to agree with us as well. A few weeks ago I offered J.J. Taylor full price for what they paid for

that 30 feet which is twice market value today. I offered him \$85,000. I also offered him that I would pay for the road at my expense. I also said that I would pay my Proportionate Share of helping them redesign if they needed redesign of their project. I don't know if I can make it any easier or any clearer for anybody that we're willing to work with the City as well as annex our piece into the City so that it becomes one whole unit. I don't know what else I can do to help you. I can't make it any easier than that. All we requested from the applicant was simply in writing their willingness to negotiate with us and give us the right-of-way providing that we gave them adequate compensation for their easement, not even the land. We don't even want to buy the land. We just buy an easement because if we don't get the easement, as you can very well tell, we're landlocked. We cannot get out unless we build a road that belongs to F.D.O.T. We have their easement and I've been working on this since 2004. That's five years. That's a long time. I don't know how else how I can help you more than that. I think you understand what I'm saying about the road. Staff was kind enough to help me with a little picture. As you can see, this is the only access out to our property. If you take a blow up of that and see where that lands, in order to get to our property you have to make a u-turn where you enter that's onto the Turnpike. That's the only way in or if you are coming from the west. It's pretty unsafe. I don't think that we want to landlock. I'd love to be able to annex into the City. If there's anything I can help you with, staff knows how to get in touch with me. I'm happy to say that I want them to develop. The more they develop, the more we can get that whole area cleaned up. My property becomes more valuable and we've had to turn down four different projects now that we couldn't develop because we haven't had clear cut from anybody that we can get access in and out of our property properly. We can get out through that little easement but not properly. I have a letter also from the McKnights signing that they're willing to go along with it because it benefits them as well. That's the letter that they were referring to. I promised staff that I would furnish them with any information that I have. I have a whole plan I prepared to go see J.J. Taylor with. All of this back from 2004, Fire Department, Transportation and the like, the City the County can also tell you so. If you have any other questions for me, I'd be happy to answer them.

Board Attorney Walker said Mr. Chair, excuse me. Sir, you've made reference to certain documents. It would therefore be my recommendation that they made part of the record of this proceeding and that you accordingly hand them to the Clerk who will mark them and pass them down the dais.

Mr. Ingraldi said I have no problem with that. If you can receipt me for them that I have entered them in. I don't have no problem giving you these.

Board Attorney Walker said she'll record them.

Chairman Hayek said thank you Mr. Ingraldi.

Mr. Ingraldi said also, I believe you all, or I think most of you got a copy of this but I'll give you another one. I also delivered it to the Mayor as well as the County and City Commissioners.

Chairman Hayek said any questions of Mr. Ingraldi before he runs away?

Mr. Weaver said have you made a similar proposal to the property owner to the north of the J.J. Taylor site for an additional 30 feet?

Mr. Ingraldi said we spoke to them years ago when they owned all of the property. We have not spoken to them. When their site plan failed to get renewed, at that time there was no purpose to speak with them because they told us at the time that it wasn't renewed that they were coming in for a different site plan. We were, I don't want to use the word assured but sort of made to feel confident that no site plan would ever be approved that would land lock us. Past that, I can't be any more specific if that's all we were told that we would work together. That's the best answer I can give. We have not spoken to him probably for 2-21/2 years or you can probably look up in your records when this site plan expired. We haven't spoken to them since then.

Mr. Weaver said thank you.

Chairman Hayek said anyone else? Thank you Mr. Ingraldi. Anyone else? Please state your name and address for the record please.

Mr. Rivera said hi. My name is Jose Rivera. I'm Vice-President of Operations for J.J. Taylor Distributing, Florida. As you mentioned, we are a beer distributor. We acquired this company for the rights to distribute beer in this area about seven or eight months ago from another distributor in the City that was leaving the business. At the same time that we acquired the company, we started looking for a place to set up our operations. We identified the area, we talked to everybody and we did our due diligence. A lot of things came up from the due diligence. There were some easements in the property that we have to clear that were taken care of. As we got more into the process, this connectivity issue came up. Yes, I met Mr. Peter Ingraldi about a week ago or something like that. That was my first meeting with him. That was my first knowledge of exactly what was going on with this issue. That he offered to reimburse me 100%? No. That we are willing to stay in St. Lucie County? Yes. That we are willing to stay in Fort Pierce? Yes. We like the area. We see a lot of opportunities here for us and we're prepared to pay our Fair Share of all these impact fees which right now we don't even know how much it is. At the same time, we have a time-frame that we have to meet. We're not in the best economic situation right now in terms of the economy in the Country and in Florida and the more and more it takes to get something done, then more and more it costs to us. As I said, we're willing to do a lot of things but there is a point that we can't stretch too. I think there's an access. We can discuss the access. We can discuss the connectivity. I don't have issue with that. As long as it doesn't cost me more than it should cost me to build a building. I think that's as plain as I can say it. We bought the property with the understanding that there was nothing in there and that's how we're dealing with it. Agreements from four years ago I don't know anything. There's nothing in writing. There's nothing in black and white and that's the issue that we have. That we're willing to talk with Mr. Ingraldi and provide him access? Yes. We're willing to talk to him as long as the other property owner to the north also agrees with him but so far, just a conversation. We have provided alternatives to the connectivity. So far from what we understand also, the property owners to the south are not agreeable to that. We're here to present a project that we want to execute. We hope

that we can move here to this new property sometime in January/February of next year if everything falls in place and that is very aggressive but that's the way we do business – very aggressive. We have other facilities and you can take a look at them. We have a nice facility in Tampa almost ½ million square feet in Tampa on 43 acres. We have another nice facility in Fort Meyers 75,000 square feet on 15 acres. We dealt with the cities, we dealt with the counties. We did very well. Everybody was happy and that's the way we want to keep it going. If we need to help somebody else, we don't have an issue with that but we don't want that to preclude us going through the process and obtaining the approvals on this project. That's all I have to say.

Chairman Hayek said thank you very much. Any questions?

Mr. Weaver said I have a question of staff. Is there any background with all the parcels to the north of the landlocked parcel as to why the connectivity was not addressed when the Crossroads Parkway plat was put into play?

Mr. Carlin said Mr. Chair, Mr. Weaver. That was obviously was done before my time and this staff's time here so I can't answer how the plan was contemplated whether the County had originally done that. I don't have an answer for you on that. What we're here telling you is that now is the time to deal with how we're going to plan the rest of the area as it develops forward so there is not going to be a situation where an intersection is going to be functioning at an unacceptable level of service. We anticipate that happening at the full buildout. What we want to make also very clear to the Board is that we recognize the impacts to any development when this type of request is made. We're not recommending that the project be stopped or not be moved forward. What we're saying is let's move this forward. We'll continue the dialog and I think that in the end it'll have a positive outcome and we'll all come to a mutual understanding that it will be in the best interest of the City and all adjacent properties to have this. How we get to that point? We're still working that out but I also want to point out to the Board that right-of-way dedications can be used for Proportionate Fair Share credits if you will. That is a benefit to the property owner where if they decide to dedicate right-of-way, that can be used as Fair Share requirement. Regarding all those Proportionate Fair Share requirements that were previously listed, if you dedicate right-of-way, the Code does contemplate having that as an option. It's almost like an impact fee credit. I think that we're still working through some of these issues and I anticipate having a positive outcome on this.

Mr. Bey said Chairman, staff. There seems to be a lot of variables here. It seems like we've heard from the property owners from the west that he's willing to cooperate but there seems to be a big question about the property on the north. Can this project successfully proceed without that cooperation from the property owner in the north?

Mr. Carlin said Mr. Chair, Mr. Bey, I don't anticipate any problems moving forward without not having a definitive answer for that but obviously when that parcel becomes developed and those two properties to the north are owned by the same person, when that parcel comes in for development at that time we'll look at that variable and deal with that connectivity. I anticipate it having a positive outcome as well.

Mr. Ingraldi said I think you can clear out that variable out. There is a letter in the packet that states that Mr. McKnight who owns the property to the north is very willing to continue negotiations to have that connectivity. That we've met with him and people from the City. If you look at the packet, you'll find a signed letter. I don't think that's going to be an issue because, again, it serves all of us very well.

Chairman Hayek said yes but as we've heard, it seems like there's a big chasm between the negotiation amounts that people are expecting.

Mr. Ingraldi said I guess let me make it clearer. All I asked for was an easement that I'd be willing to pay for at fair value. I offered full price for the property. I said I'd build the road. I don't know what else I need to do. If that's not fair, it's no cost or impact to J.J. Taylor whatsoever. I'm paying for the engineering, I'm paying to build the road and I'm paying for an easement. I'm not buying the land. I'm paying for an easement. Full price. I don't see that as a variable. I'm sorry. Is there anything else I need to do, just let me know. I'll be happy to absolutely consider it. Fair enough?

Chairman Hayek said thank you very much.

Mr. Ingraldi said any other questions? Thank you. I appreciate your time.

Chairman Hayek said now I'd like to invite anybody against this project to come forward please. Seeing none, what does the Board have to say?

Ms. Wood said Mr. Chair, it would seem to me that this has been an interesting and useful discussion and yet all the things that have been brought up ultimately appears to me have nothing to do with the actual impacts that are proposed by this project in particular. It's about the whole area and the need for a larger solution. It seems to me that we clearly have cooperative property owners. We have competent staff. We have a plan put together. It seems like there is a solution in here somewhere at the point before this reaches the City Commission. Again, the only things we've discussed are these connectivity issues which I didn't hear that this project was proposing impacts to the roadway system that blew out the level of service at that intersection which is what I think what we we're talking about essentially.

Mr. Carlin said Mr. Chair, Ms. Wood. That's not entirely true because they're going to be generating tractor trailers that will ultimately use that road and contribute to stacking and that prevents facilitating the free movement of vehicles in that area. Yes, it's still operating at an acceptable level but they are contributing to generate trucks to that intersection which is a problem right now. What we're saying is that connectivity will help alleviate providing more impacts of having more trucks enter on that roadway.

Ms. Wood said right and again, I'm not trying to undermine the goal of achieving that connectivity and as you've said, there are options available for this applicant to work out a deal that works for them. Whether it's what Mr. Ingraldi has proposed or an impact fee through prop share. It seems like there's a solution available that I don't know that us collectively are knowledgeable enough to negotiate here or whether that's our place. I'm

comfortable enough in making a motion to approve this project with the conditions that staff has recommended.

Motion made my Ms. Wood and seconded by Mr. Poitier to forward a recommendation to the City Commission **to approve the site plan for J.J. Taylor Ft. Pierce Transfer Facility to construct a 24,614 square foot office/warehouse transfer facility on the property located at Phase I of the Crossroads Commerce Park on Crossroads Parkway with the following conditions:**

- **Providing off-site contribution upon receiving the final Development Order for traffic impacts on the segment of unimproved Crossroads Parkway which is located on the north side of State Road 70 and terminates at Kings Highway.**
- **The applicant shall provide a Proportionate Fair Share to St. Lucie County for traffic impacts to the intersection of Kings Highway and Orange Avenue prior to the issuance of any building permits.**
- **The applicant shall provide road impact fees to St. Lucie County in the amount of \$17,359 prior to the issuance of any building permits.**
- **Right-of-Way is provided along the northern property boundary for future east-west connectivity of Crossroads Parkway to State Road 70.**
- **A revised traffic report is to be provided prior to City Commission consideration.**
- **The applicant may be required to provide a Proportionate Fair Share for impacts to State Road 70 from the Florida Department of Transportation prior to City Commission consideration.**

Ms. Yates said Mr. Chairman? Ms. Wood, are you saying that you do want them to provide right-of-way along the northern section of the property? Because that is one of the staff's recommendation.

Ms. Wood said yes and again, that right-of-way we've heard, I think we've heard at least two solutions for the resolution of that right-of-way issue here this evening. I think that can be negotiated between staff, the applicant and Mr. Ingraldi if that's appropriate.

Chairman Hayek said Ms. Wood if I can. I'm going to clarify your motion and you are recommending all the staff's recommendations in your motion. Correct?

Ms. Wood said exactly. In addition, the one that was included in the presentation about the F.D.O.T. prop share that was not actually in our packet.

Mr. Poitier said I second the whole thing.

Those in favor were: Mr. Bey, Mr. Dannahower, Mr. Harris, Mr. Knott, Mr. Poitier, Mr. Weaver, Ms. Wood, Ms. Yates, and Chairman Hayek.

Those opposed: none.

Chairman Hayek said the motion has been approved and it will be forwarded to the City Commission with the Planning Board's approval.

The next item considered: **Item # 7 - Waiver of Distance – El Universo:** Request for a Waiver of Distance for a 2COP Alcohol Beverage License for the sale of beer and wine for on-premises consumption. The property is located at 3215 South U.S. Highway 1 and is zoned C-3, General Commercial. The property owner is Mary Martha Company, LLC and the representative is Noe Gomez.

Mr. Williams said good evening Mr. Chair, members of the Board. For the record, my name is Paul Williams. I'm the City's Urban Forester and I will be presenting this agenda item. The applicant has applied for a 2COP license with the State of Florida to serve beer and wine for consumption on premises. Section 3-7 of the City Code prohibits the City from granting approval for the sale of alcoholic beverages by retail for on-premises consumption where the establishment is located within 1,600 feet of other licensed establishments, churches, or schools, unless a Waiver of Distance is granted. The proposed establishment is located within 1,600 feet of 11 licensed establishments and 1 church but no schools. This aerial photograph shows the location of the proposed restaurant, El Universo in the Mary Martha Plaza which you can see before you on the aerial photograph. Outlined in red is the area the tenant will rent from Mary Martha Plaza. The subject property is zoned C-3 General Commercial, with a Future Land Use of Cg, Commercial General. The property across US Highway 1 to the east is also zoned C-3. The properties to the north, south and west are in unincorporated St. Lucie County. This photograph was taken today in front of the restaurant showing what the entrance would look like and of course the parking and landscaping is all up to Code and as part of the Mary Martha Plaza. The proposed establishment will contain approximately 6,500 square feet of gross floor area with kitchen facilities and seating for 40 patrons. Adequate parking is provided in the plaza parking area. Property owner notifications mailed to property owners within 500 feet. 30 notifications were mailed out when the application was received. As of today, seven responses have been received: six for approval, one opposed. As the proposed establishment does not appear to adversely affect community health, safety or the general welfare and meets the criteria, staff recommends that the Planning Board forwards a recommendation of approval to City Commission for a Waiver of Distance for a 2COP Alcohol Beverage License for the proposed establishment.

Chairman Hayek said thank you Mr. Williams. Any questions of staff?

Ms. Yates said yes Mr. Chairman, I have a question. Paul, what is the building capacity at 6500 square feet? How many people are going to be allowed into that building?

Mr. Williams said Mr. Chair, Ms. Yates. I do not have the information. The Fire District, the Building Department and other agencies are involved in that. Currently, in my meeting with the applicant it's 40 seats the capacity for the building will be required when the Occupational License/Tax License is applied for. That's when the Police Department, the

Fire Department and the Health Department will all become involved. To answer your question directly Ma'am, as part of this application for the waiver request I don't have that information.

Ms. Yates said okay. If we could go back to the layout, the floor plan? The reason I'm asking this is because with City Code Section 3-9, we are to determine if the type and size of the establishment including any bar floor space and seating capacity at the proposed establishment is likely to create a public nuisance or traffic impediment by drawing crowds which is why I'm asking you. We have 6500 square feet that this proposed restaurant is going to be inhabiting. It looks like a small portion of that restaurant will be for seating and then the remaining would be for a dance floor. Do you know exactly what portion of the restaurant the square footage would be for seating?

Mr. Williams said Ma'am, I have the map or the floor plan before us. The applicant is here to answer any questions like that. The live music area is the extra space. Where you see the table and the 40 chairs is what the proposed limit would be with the waiting area but I would defer that question to the applicant because right now this is the information that I was provided.

Ms. Yates said one other question please. You talked about that there was adequate parking. How many parking spaces are in that subject property?

Mr. Williams said in the Mary Martha Plaza? I can't tell you exactly. I didn't count that up. From my understanding when we worked with the owner of the plaza to bring the property up to compliance, that there is well over a 100 parking spaces in there but I can find that information out and make sure it's part of the record.

Ms. Yates said I think that would be wise because I have a concern that we could see a lot of people in this 6500 square foot space that might be coming for the restaurant facility but when you look at the hours of operation they're from 8 p.m. to 2 a.m. Is that correct?

Mr. Williams said Mr. Chair, Ms. Yates. Again, I would defer to the applicant who filled that out. I did notice that but that question should be answered by the applicant.

Ms. Yates said okay, I'll defer my questions then. Thank you.

Mr. Williams said sure.

Chairman Hayek said any other questions of staff. I'd like to call the owner forward then please. Please state your name and address for the record.

Mr. Gomez said Noe Gomez. Address is 932 Fra Mar in Fort Pierce, Florida.

Chairman Hayek said thank you Mr. Gomez. Any questions of the applicant?

Ms. Yates said yes Sir. Good Evening. I'll ask the same questions that I was asking Paul and that would be how many people can fit into this building.

Mr. Gomez said like he just said, we're not sure yet because we still have to get the permits involved to find out, the Fire Department and other departments but I do know that when that establishment was opened for another type of business I know they had the capacity for about 320 people and that was it.

Ms. Yates said so we've got about 100 parking spaces more or less in that area?

Mr. Gomez said that is correct.

Ms. Yates said are the hours of your business going to be 8 pm to 2 a.m.?

Mr. Gomez said when we originally had applied we had other intentions for the place. Now that we have changed it more, we're trying to bring in live entertainment. We're going to bringing more dates and it is going to be open earlier more like a functional restaurant.

Ms. Yates said what would those hours be?

Mr. Gomez said we're thinking it's going to be more like an evening type of thing so it's going to probably start anywhere from about 5 o'clock, 4 o'clock and run into the late hours of the night.

Ms. Yates said so 2 a.m.?

Mr. Gomez said depending on the entertainment, depending on what there is.

Ms. Yates said and speaking of, can you tell a little bit what you had in mind with entertainment?

Mr. Gomez said definitely. We are planning to bring in all types of entertainment from live Mariachi bands, country groups. We're planning to have all kinds of stuff happening there. We even have some people thinking about something like a karaoke night or that type of thing. We are trying to bring family entertainment into the area.

Ms. Yates said thank you.

Chairman Hayek said any other questions of the applicant? Thank you very much. Anybody else here to speak for against this project? Please state your name for the record.

Mr. Meyers said Marc Meyers, Building Official for the City. Just for informational purposes so that the applicant realizes. When I saw the application it says a 40-occupant restaurant. Once we get over 50 occupants, it becomes an A-2 per the Building Code. Even if you are very liberal with the numbers, you have 15 square feet per person for an A-2 you can get over 400 people at this place. It becomes an A-2 which is a restaurant, night club, dance hall serving drinks is the area that it falls into which is very restrictive. When you get that many people in a place, you have to make sure that they have the proper egress so in case

of an emergency they can get out, fire alarm systems, sprinkler systems and so on. The applicant needs to realize that if he's going to put the maximum amount of people in here that the Fire Department, the Building Department, Health Department are going to have some issues that may have to be resolved before they can put that many people in this building.

Chairman Hayek said thank you very much Mr. Meyers. Any questions?

Mr. Knott said yes if I could please before you leave there. Am I understanding that what you're saying is that if he proceeds with his application as we see it here tonight and he goes with the seating for the 40 restaurant people then he can go up to 400 people roughly and that puts in this A-2?

Mr. Meyer said once he's over 50 occupancy.

Mr. Knott said once he's over 50 he can go up to the 400 then, is this correct?

Mr. Meyers said if over 50 occupants from the Building Code it becomes an A2 or Assembly 2 which is much more restrictive than.

Mr. Knott said he's going to fall into that?

Mr. Meyers said yes.

Mr. Knott said are you familiar with the building itself? Is there going to be a lot of upgrading in this for fire systems and ingress/egress?

Mr. Meyers said I have no knowledge of it.

Mr. Knott said so I just want the applicant to know that even if he may have to do a little more research on this if he hasn't already because if we recommend this to the City Commission that they go ahead with this, he may not be able to afford to do what he wants to do.

Mr. Meyers said he's going to have to have someone inspect it when he applies for his Occupational or Business Tax License. Once that occurs, if we realize that there's more than 40 occupants being planned for this, it goes different level of scrutiny.

Mr. Knott said right now he is only applying for 40? Is this correct? Is this my understanding?

Mr. Williams said Mr. Chair, Mr. Knott. Yes. Before you tonight the applicant is requesting a Waiver of Distance for 40 people.

Mr. Knott said and that's all we have to judge it by, is this correct? If this is 50 or more we have no knowledge of this. Is this right?

Mr. Williams said that is correct. We're here to talk about if the Planning Board feels that this zoning is adequate for a 2COP Waiver of Distance.

Mr. Knott said I guess I'm confused. Are we dealing with reality or possibility or probability?

Mr. Meyers said again, the only reason I came forward is just so that the applicant realizes that if he's going over 50 people in his occupant load he falls into a different category which is much more restrictive. He needs to realize that.

Mr. Knott said who enforces this over 50 category?

Mr. Meyers said it's the Building Code as well as the Fire Code.

Mr. Knott said how do they do this? If he proceeds with it with what he has right here, he's only showing 40 so he's not violating, he's not up to the A2 category. After he opens, will somebody go by and say "we did a headcount here and you have 75 people"?

Mr. Meyers said yes. We work together with the Fire Department and we have gone into places before when they're obviously overloading the building.

Mr. Knott said he can have 40 people in there 50 people in there swinging dead cats and he'd never hit anybody. I mean, he's got a lot of room.

Mr. Poitier said the Fire Department would not issue a permit. They'll come and check it and tell you what could possibly go in there. We don't have to worry about that.

Mr. Knott said what I'm trying to find out is we're just dealing with the 40?

Mr. Poitier said yes. That's all we got.

Chairman Hayek said yes Sir. Please come forward.

Mr. Gomez said just to answer a little bit of his concerns, we already did have some people come out there and check it. We do have actually all the Occupational permits for the place. The only thing that we're dealing here is with a Waiver of Distance. Everybody has gone out there from the Health Department. The only one that hasn't gone out there as of yet because of the Waiver of Distance is Fire Department to tell us how many people we can actually bring in there. Everything is up to Code – exit lights, there's plenty of places for people to get out in case of any kind of emergency. We did all kinds of fixtures to the place. We've done a lot of remodeling to the place. I don't foresee any issues or any problems. There is a lot of space. If we do bring in live entertainment, we used to have a promotion company where we bring Grammy-award winning stars, you know what I mean, so 40 people is not going to cut the bill if I bring somebody like that here to Fort Pierce. Do you know what I mean? There might be some days where we might have more than 40 people there but maybe they're there to see the live entertainment that is going on. Do you know what I mean? As far as I can tell you, we have had different people come out there. We've had the Health Department that came out and checked us out. I can't even

remember. It's such a long process but we've all the licenses except the beer because we're working on the Waiver of Distance.

Mr. Knott said Mr. Gomez, are you actually working on the building now? You've got your kitchen installed?

Mr. Gomez said everything is installed.

Mr. Knott said are you open?

Mr. Gomez said we have not opened because we're waiting for the Waiver of Distance to go through. I haven't even opened it.

Mr. Knott said will you consider opening without the Waiver of Distance? Without the beer and wine?

Mr. Gomez said to be very honest with you, when I got all my occupational license I did try for one weekend or two weekends and we had three people come in because we have no beer. Without that, I'm going to be dead.

Mr. Knott said alright, thank you.

Chairman Hayek said anyone to speak against this project? Seeing none, what is the Board's desire? Any discussion.

Ms. Wood said Mr. Chair, I'll just briefly make a comment that I initially, I'll have to admit I don't often in very great detail at applications like this.

Mr. Knott said me neither.

Ms. Wood said well, I'm just too eager to put on my party hat and go have a beer but I think Ms. Yates' concerns are really valid. In fact, I think it's part of our responsibility to really look at the data that's before us. Quite honestly, it doesn't smell like a restaurant. It smells like a night club. I think especially given the issue that Ms. Yates brought up about the potential public nuisance and there's also the element of is the facility physically separated and well-buffered from all adjacent residentially-zoned areas. It looks like there are residences about 30 feet behind this establishment. I think those are points of concern. I don't know if that means I won't support the application because yes there is the other side of this is what they're applying for and that's what we're assessing. I'm always uncomfortable creating potential situations where it's then up to yet another department to go in after the fact and enforce a problem that we've allowed to occur. I just wanted to make that comment.

Mr. Bey said I agree with the both of you. It just seems that there should be a way that if you're trying to present a cat or an elephant as a smaller animal that before it gets to us that all this is discerned and we can determine because you're right. This is a night club. When you're in the business, you want to get as many as people as you can. The issue

that we're dealing with is the Waiver of Distance. Maybe there should have been a way that this could have come to us or not come to us because of the size but we're dealing with a bunch of things that aren't seen. I don't say that to say that I don't support the issue but it's the size the place and I understand the concern of that.

Mr. Knott said one more question if I could Mr. Chairman. Mr. Walker, perhaps you can help me out on this. Before us here, if we just look at what's on the paper and what the application is and not project what we anticipate, are we bound by the Ordinance to just deal with what's right before us or do we anticipate problems in the future? Or, can we base a motion on anticipated problems?

Board Attorney Walker said respectfully Mr. Chair. Had it not been for the closing remarks of the applicant, it would have been my opinion that the Board was confined to the four corners of the application and should not guess or speculate about what matters might occur in the future upon understanding that if there were any problems, those would be matters of enforcement. However, in this proceeding the applicant has admitted that there may well be and probably will be instances where he will exceed the number of 40 inside the building depending upon the drawing power of the entertainers that are being offered. Therefore Mr. Chair, based upon that admission of the applicant, I believe that the Board can fairly consider that kind of testimony in light of the other matters that have been brought before the Board's attention and take into account it's common sense as it thinks best. To offer a brief Executive Summary of that Mr. Chair, I do feel that the Board can take into account all of the evidence that has been offered here this evening including the remarks of the applicant in determining whether or not there would be an issue under Section 3-9(8)(b) which requires that the Board consider the following factor among others: "*the type and size of the establishment including any bar floor space and seating capacity and whether in view of such type or size the proposed establishment is likely to create a public nuisance or traffic impediment by drawing crowds or persons milling about outside the building*". Does that fairly respond to the question?

Mr. Knott said yes it does Mr. Walker. I appreciate it because it appears that if we were to put on our blinders on and just look straight ahead on this we would be obligated to support it. But in light of what Mr. Walker has said, I feel that all we're doing is precipitating an enforcement case sometime somewhere down the road is what it's going to come down to it. I think the applicant needs to rethink and come back under some other conditions as far as I'm concerned. I'm just leaving it up to the Board members.

Mr. Bey said I agree. I would like to support this but I need we need to look at it in the full extent of possibility dealing with 250, 300 people instead of 40. I think passing this and expecting we're only going to get 40 people I think is not accurate.

Mr. Poitier said that's not our job. We've got the City Official in Fort Pierce that correct overcrowding violation rules. Our job is just to get him a Waiver of Distance. We're going in that area. I run a club too. They are different groups in the State that license the club not the Planning Board.

Mr. Bey said Chairman, Mr. Walker just said that we can take in all of the information that we've been given based on the person's own testimony so I think we've been given the fact that there will be times that there will be more than 40 people. Maybe we can be preventing a situation that we've had in town before where we've had places that were overcrowded and we've had problems based on the occupancy that we or the situation that we created for them to be in.

Mr. Poitier said Code Enforcement takes care of that.

Mr. Bey said okay.

Chairman Hayek said what he said is right, Mr. Bey. I sort of agree with Mr. Poitier. The question is the 2COP license and unfortunately for the applicant he mentioned that he might have over 40 in front of the Building Official so it probably would behoove Mr. Meyers to scrutinize this application a lot more closely when it does come before the Building Department.

Mr. Poitier said right.

Mr. Bey said that makes sense.

Mr. Weaver said Mr. Chair, may I ask staff? Is the applicant in compliance with all the regulations regarding his issuance of his Occupational License?

Mr. Williams said Mr. Chair, Mr. Weaver, the Occupational License or the Tax he will be applying. He currently has had a license approved but will have to come back to the City and get one for a restaurant. What he is currently has an Occupational License for was his previous idea. Again, we're here tonight for a Wavier of Distance. I have been told that he is running a restaurant. The only way you can get a Waiver of Distance is if you have a restaurant – not a club. He has made it intentionally clear to me that this is not a night club. You can look into this any way you want but Mr. Weaver, currently there is not an Occupational License and he will be dealing with Mr. Meyers and the Fire Department, and the Health Department. I don't think there will a problem with those unless it's determined that there is going to be more than 40 people. I'm presenting what the applicant has brought before you which is a Waiver. He is going through the process. This is a business decision for him.

Chairman Hayek said thank you. Any other questions or comments? What is your desire.

Mr. Poitier said I would like to make a motion that we go along with staff's recommendation.

Motion made by Mr. Poitier and seconded by Mr. Harris to approve the Waiver of Distance for a 2COP license for the property located at 3215 South U.S. Highway 1.

Chairman Hayek said any discussion? Hearing none can we have the roll call please?

Those in favor were: Mr. Dannahower, Mr. Harris, Mr. Poitier, Mr. Weaver, Mr. Hayek

Those opposed: Mr. Knott, Ms. Wood, Ms. Yates, Mr. Bey
Chairman Hayek said Mr. Walker, if there is a tie, is there a recommendation?

Board Attorney Walker said as reported to me by the Clerk, Mr. Chair, the vote was five to four in favor of approval. However, a five/four vote does not constitute a recommendation. The matter goes forward to the Commission without a recommendation. It would take a vote of six or more, a majority of the Board to constitute an actual recommendation.

Chairman Hayek said this matter will just go to the City Commission. Thank you very much.

Forwarded to the City Commission without a recommendation for approval of a Waiver of Distance for a 2COP license for the property located at 3215 South U.S. Highway 1.

The next item considered: Item # 8 - Other Business – Cortez Townhomes: Approval of a proposed Amendment to a Developer's Agreement to construct 93 multiple family units in 12 two-story buildings on properties located at the south side of Cortez Boulevard, approximately 750 feet east of the intersection of South 25th Street and Cortez Boulevard.

Chairman Hayek said staff is Marc Meyers.

Mr. Meyers said Mr. Chairman and Board. This is a situation where Cortez Multi-Family or Cortez Townhomes got approval in 2006 through the County. They subsequently annexed in to the City and proceeded to get Building Permits. It's 93 units in 12 buildings. Part of the Agreement back in 2006 with St. Lucie County was, and it's in your packet, that the Developer was to install signalization at 25th Street and Cortez as well as turn lanes on Cortez and also widening Cortez from 25th to the eastern boundary of their property. Currently, seven buildings are constructed. They are not occupied. There's another issue. The St. Lucie County obtained HHR money or Hurricane Recovery money that they subsequently loaned to the developer. The parameters of that loan are that they have to have occupancy by the first of June, 2009. We cannot give them occupancy if they have not taken care of everything that they agreed to in the County. We're coming down to the final hour here. The solution that everyone tried to come to was that there be some type of Bond or it's been recently changed to a Letter of Credit that would be put up with the City that would be on top of the construction that is required with the County for construction of these off-site improvements. The Designing Engineer has said that they are 80% done with their construction drawings for these off-site improvements but of course they have to get permits through F.D.O.T and through St. Lucie County. It's going to take some time to get this constructed. We cannot issue occupancies until this is all completed. We're up against a time-frame of June 1st to get some occupancy or the County loses their \$2 million. The developer is in a very tight financial situation and the City is getting a very needed safety issue taken of with this signalization. Staff recommends that we forward this on to the Commission with a recommendation from the Planning Board that this all get worked

out to the approval of the City Attorney as far as all the legal documentation of the Agreement as well as the Letter of Credit. It gives the developer about five weeks to get 24 units ready. He has to do the landscaping, second lift of asphalt and so on in order for occupancy on at least 24 units in this development as the off-site improvements continue.

Chairman Hayek said thank you Mr. Meyers. Any questions?

Mr. Knott said Mr. Meyers, did you say that you are requesting a Letter of Credit or a Performance Bond?

Mr. Meyers said originally it was a Performance Bond but the City Attorney was not real comfortable with that because of the insurance situation, AIG and so forth, so he switched to an Irrevocable Letter of Credit from a local bank which the developer has since.

Mr. Knott said are you comfortable with the banks? So this in our packet is all not to be, it's out, right?

Mr. Meyers said it's out. The Letter of Credit is what's in.

Mr. Knott said let me ask you another question then. I saw that the Bond was key to the Engineer's estimate and there was going to be a 200% which is great if you can get that. Is the Letter of Credit going to be? What amount would that be?

Mr. Meyers said as far as I understand, it's for

Mr. Knott said the 200%.

Mr. Mathes said I'd like to address that if possible.

Mr. Knott said okay. One other question is the Bond was key to the contract time. It was only good for 12 months beyond the contract time and I noticed that Stef maybe put in here that the contract time was not set until some of this was taken care of. Has that been?

Mr. Meyers said that all will be part of the Letter of Credit.

Mr. Knott said okay, very good.

Mr. Meyers said it will be irrevocable and only to be cancelled on the terms of the City not on the developer.

Mr. Knott said okay, thank you.

Mr. Mathes said Stef Mathes of Culpepper & Terpening here representing the applicant Cortez Townhomes LLC. Thanks for your indulgence. Just to address the Letter of Credit versus the Bond issue. We'll still trying to work through the nuances of doing that conversion and if we could actually do that to actually get a Letter of Credit posted for 200% of it it's very difficult. You have to have the money in the bank. There are all sorts of

issues associated with it. I'm still trying to work that out with the City Attorney. We do have though a Bond posted for 200% of the construction costs. The money has been paid for the Bond. It's actually in the City's name already. There is assuery on hand we just have to work out that final detail with the City Engineer to make sure he's comfortable.

Mr. Knott said Stef, let me just interrupt you for a second. Who came up with the 200% because the City?

Mr. Mathes said the City required 200% because this is a special case.

Mr. Knott said do they think you guys are going to slip away in the middle of the night or what?

Mr. Mathes said no. I think that timing was a lot of the issue and the City has had some instances in the past where a project took much longer to bring to fruition than the original Engineer's estimate had contemplated, had a real change in construction numbers. Even though we're reversing that right now, it was an abundance of caution that they push for 200% rather than the typical 120.

Mr. Knott said because I know for plats is 120.

Mr. Mathes said 120. Right.

Mr. Knott said when I saw the 200 I said "Wow. You guys are generous."

Mr. Mathes said the developer, I think he has gone above and beyond trying to make sure that the City is being taken care of and satisfied. Like I said, we do have that one issue we're still trying to work out with the Attorney's office. We're working through it and hopefully we'll have resolution by Monday night when we're supposed to be in front of them but there is a Bond right now in the City's name that he has already paid for \$101.5 million and he does need his COs pretty desperately.

Mr. Knott said it sounds like it.

Mr. Mathes said if there are any other questions, I'll be happy to answer them.

Chairman Hayek said I want to see it get through the Attorney's by June 1st.

Mr. Mathes said we've been working on that very diligently.

Mr. Weaver said Mr. Chair? There seems to be in the Development Order quite a bit of concern about safety as the rational behind putting the traffic lights before that Certificate of Occupancy were issued. Are we setting those safety concerns aside by accepting this Bond and not requiring that the applicant get the job done prior to the CO?

Mr. Mathes said we took look at the traffic counts and the amount of the traffic trips that will be generated by the first number of COs. That's why we've limited the COs to 24 and we

had bench marks along the way. You have 24 upfront which doesn't put more traffic on the roadway than the roadway can handle. We then had 16 at the first threshold of having the signal activated. Then we have the additional 16 that they have ready now at completion. Then he has the ability to move forward on the additional units to get them to 93 but right now he only has 56 right now. We took a look at the safety aspects and the traffic that would be out there and we felt very comfortable that this would alleviate that concern.

Mr. Weaver said thank you.

Mr. Meyers said just to follow up Mr. Weaver. If we only are doing 24 so that we don't dump another couple of hundred people using this intersection as well as the Agreement also states that we will not issue any more building permits for the five buildings until the pool and the clubhouse are up and operating so that we don't have residents using a facility that never gets built.

Chairman Hayek said any other questions? Anyone else for this project? Anyone against this project? Seeing none.

Ms. Yates said I move for approval.

Motion made by Ms. Yates and seconded by Mr. Poitier to forward a recommendation to the City Commission to approve the proposed Amendment to a Developer's Agreement to construct 93 multiple family units in 12 two-story buildings on properties located at the south side of Cortez Boulevard, approximately 750 feet east of the intersection of South 25th Street and Cortez Boulevard.

Board Attorney Walker said Mr. Chair, a brief point of clarification. This is with the condition recommended by Staff that the Development Agreement be made subject to approval as to form and content by the City Attorney?

Amended motion made by Ms. Yates and seconded by Mr. Poitier to forward a recommendation to the City Commission to approve the proposed Amendment to a Developer's Agreement to construct 93 multiple family units in 12 two-story buildings on properties located at the south side of Cortez Boulevard, approximately 750 feet east of the intersection of South 25th Street and Cortez Boulevard with the condition that the Developer's Agreement and attached Letter of Credit be approved as to form and content by the City Attorney.

Chairman Hayek said seeing none. Could you take roll call please?

Those in favor: Mr. Harris, Mr. Knott, Mr. Poitier, Mr. Weaver, Ms. Wood, Ms. Yates, Mr. Bey, Mr. Dannahower and Chairman Hayek.

Those opposed: none.

The next item considered: **Item # 3 – Consideration of Absences**

Motion made by Mr. Poitier and seconded by Ms. Yates **to excuse the absences of Mr. Johnson, Mr. Lloyd and Mr. Reilly.**

Unanimously approved by voice vote.

The next item considered: **Item # 9 - Discussions**

Chairman Hayek said Mr. Walker, anything to add to this meeting?

Board Attorney Walker said thank you for asking Mr. Chair.

Mr. Carlin said Mr. Chair, we do have one order of business. I believe you have some supplements Maritza?

Ms. Suarez said they were included in the packets.

Mr. Carlin said you did receive some supplements to your Code. I want to make sure you were aware of that. One other thing before we adjourn, we are currently evaluating streamlining the delivery process of packets to you all. One of the ways that we are contemplating this is to send things electronically. It has become very expensive to produce packets such as the ones that you have seen. We have a relatively light agenda this evening but we are currently transitioning to an electronic delivery method. It's already in place for the Commission meetings where we have what's called a Muni Agenda and things are going to be submitted electronically. That's going to drastically reduce cost at least from our end we have many meetings. We have Planning Board, Historic Preservation, Board of Adjustment, Commission, Technical Review Committee. You have no idea how much paper that we use. We're in the process of evaluating and doing that with all of our agendas – sending them electronically. We have reduced staff in our department and it does create an impact delivering packets to you all in a timely manner. It does have an impact on our operations. We are evaluating sending things electronically to you. We want to poll things to see whether or not.

Mr. Knott said how would you do this?

Mr. Carlin said the plans would be electronic in PDF format.

Mr. Knott said you would scan them in?

Mr. Carlin said oh yeah. We require all developers now to submit plans on CDs. We upload them into the system. We have them stored.

Mr. Knott said we'll get a traffic report?

Mr. Carlin said everything would be right in PDF format.

Mr. Knott said who would print them out for us?

Mr. Carlin said well you would read them at your discretion and then if you have information we can present them on the screen for you at the time of the presentation but you also have the opportunity to print them out at your disposal if you need that. Do you really think you need to print out a 300-page traffic report? I don't think so. Certainly that's a waste of paper. We wanted to let you know that if you all are on board on that we'd like to transition into that process. Certainly, I don't know if all of you have computers but we hope that.

Mr. Knott said so can we do it on a trial basis rather than say yeah, this is it forever?

Mr. Carlin said absolutely. We can do the interim period of time. We can give the hardcopy but also the electronic. If you would, if you could give us your email for those of you that have email, please give that to our Secretary and we'll go ahead and start that for the next month's meeting.

Ms. Wood said is that you're proposing to email the whole packet or is there another way?

Mr. Carlin said yes. That is what we're contemplating doing – trying to do an electronic submittal whether it's a CD or whether we can.

Ms. Wood said that's what I'm getting to is the format because I think that.

Mr. Carlin said we're also contemplating possibly having an FTP site where you can retrieve that. Again, we're in the technology, we're trying to go down, we have many technology platforms that are being contemplated here.

Ms. Yates said if it's too large to email, the FTP would work fine.

Mr. Carlin said it's a work in process, we just want to let you know that we spend \$1,000 a month on one machine alone in overages just on paper.

Mr. Knott said do you all have to generate this?

Mr. Carlin said we have no fee structure in place.

Mr. Knott said you don't make the developer give you all this?

Mr. Carlin said exactly. I presented to the Commission last week the first version of our fee structure change. We pay for notifications. We have \$25,000 in our budget that's utilized to pay for advertising for Waiver of Distance applications. Again, we can't afford to continue to bleeding money out at this rate so we're looking at different options to facilitate this. We wanted to let you know that's what we're thinking about.

Mr. Weaver said I find it difficult to think that we could possibly review a full-size site plan one little bit at a time and you have to be able to take it in it's whole and in it's components. I'm not sure that a 24 x 36 drawing can ever be properly evaluated in a 17" monitor.

Mr. Carlin said you'll have the ability to zoom in areas as a PDF. Obviously, a paper plan is something we've all been used to. Again, we're just looking at ways to streamline delivery methods with reduced staff. Obviously with the economy, we don't have resources to always be delivering things and also maintain in-house staff coverage. The paperwork issue in terms of copying all these documents that you get becomes difficult. When we were busy, we were delivering all these stacks of plans to people. That's not easy for us to do. I'm not trying to say we're looking for the easy way out but we're looking at a practical side of this. We can try it out and see how it works.

Mr. Weaver said I would just like to add that the 8 x 11 might work very well but the Fire Department has the same rational of requiring full-size drawings in addition to the CDs for the reasons that I mentioned here. It's very difficult to review a full-size site plan in any other way than on a piece of paper.

Mr. Poitier said we have a trial basis? When you are going to start?

Mr. Carlin said absolutely. We'll try it out and see if we can an FTP site up.

Chairman Hayek said Mr. Weaver, any more the Fire Department is accepting a CD. When we submit, we only submit one set of plans and about 10 CDs.

Mr. Knott said is that what you require?

Mr. Carlin said we are requiring CDs now because we upload those into a database in case the plans get destroyed.

Mr. Knott said you used to require 17 or 21 copies of the developers. You don't do that anymore? You'll stop that, is that correct?

Mr. Carlin said well we will have one paper set always on file in the department. There's no doubt we will always have at least one.

Mr. Knott said signed and sealed or whatever.

Mr. Carlin said yes but what we're saying is to deliver is 17 plans that we have to run through the machine in copies here is really, if anything, the staff reports that you get, maybe the paper copies as an alternative. We can be flexible. We're looking at different ways of delivering information.

Mr. Knott said the developer gives you all his paper support right? So all you'll looking at is your staff report?

Mr. Carlin said that's true. We can do that but still it's a delivering all these giant things. It creates problem.

Chairman Hayek said it's a great idea. I'm so happy to hear it. Would the Board be able to get some of these items that are already through your staff? Would we be able to get them earlier via email rather than the Friday before?

Mr. Carlin said yes, absolutely. Keep in mind that we have many meetings that we're preparing at the same time as Planning Board. Ms. Wood knows because she used to work in our department. We have all these meetings that continue. The timeframe never changes. We have Planning Board, two Commission meetings, Historic Preservation, Technical Review Committee. We're always doing projects and preparing staff reports. It's not easy, Mr. Hayek, to get them out earlier because of the timeframe that we have is a challenge.

Chairman Hayek said but on email you could?

Mr. Carlin said that's true.

Mr. Knott said maybe you can get your staff reports on line or where we could come in and get it but with the understanding that if the hardcopies of the these large plans are available in your office, if any Planning Board members wants a copy stop in that way you all don't have to deliver them.

Mr. Carlin said that's certainly a great idea.

Mr. Poitier said that's a great idea.

Mr. Knott said you can email us the staff reports or we can come get them. Sometimes you're right. I like to see the full plans on some of these things and still have plans available in your office if Board members wanted to pick them up.

Mr. Weaver said I think it would be important to be able to interact with the applicant and be able to reference back to the full-size drawings at the meetings.

Mr. Knott said I wouldn't mind just swinging by and just picking up a set. Very good.

Chairman Hayek said anything else.

There being no further business, the meeting was adjourned at 7:50 p.m.